

SENATE RULE 103 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider **S.B. 624** at 9:00 o'clock a.m. tomorrow.

CONGRATULATORY RESOLUTIONS

S.R. 153 - By Henderson: Commending David Lee.

S.R. 155 - By Brooks: Extending congratulations to Paul Conner.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:07 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

TWENTY-EIGHTH DAY

(Wednesday, February 27, 1985)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Absent-excused: Washington.

A quorum was announced present.

The Reverend Hubert L. Austin, Associate Pastor, First United Methodist Church of Temple, offered the invocation as follows:

We stand in this place with a sense of humility and faith, O God, because we believe that we are standing on Holy Ground. For wherever God is that is Holy Ground.

Surely the Lord is in this place, and in the hearts and minds of those present. Therefore, we express our gratitude for the leadership of the Governor, Lieutenant Governor, the Legislators and employees of this great State. Continue to give them wisdom, courage, and foresight as they determine the destiny of its people. We pray this in the name of the Supreme Lawgiver, The Living Lord. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Washington was granted leave of absence for today on account of illness on motion of Senator Whitmire.

REPORTS OF STANDING COMMITTEES

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 449

S.B. 469

S.B. 466

Senator Jones submitted the following report for the Committee on Finance:

S.B. 374

C.S.S.B. 248

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

S.B. 392

C.S.S.B. 164

C.S.S.C.R. 51

C.S.S.C.R. 52

C.S.S.C.R. 41

C.S.S.C.R. 24

C.S.S.C.R. 22

C.S.S.C.R. 11

C.S.S.C.R. 2

S.B. 491

S.B. 5

Senator Parker submitted the following report for the Committee on Education:

S.B. 191

C.S.S.R. 30

Senator Caperton submitted the following report for the Committee on Criminal Justice:

S.B. 385

S.B. 415

C.S.S.B. 320

C.S.S.B. 120

C.S.S.B. 185

Senator Howard submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be Members of the BOARD OF REGENTS, TEXAS A&M UNIVERSITY: John Mobley, Travis County; Royce E. Wisenbaker, Smith County.

To be STATE AUDITOR: Lawrence F. Alwin, Harris County.

To be Members of the TEXAS WATER DEVELOPMENT BOARD: Stuart Sinclair Coleman, Brown County; Glen E. Roney, Hidalgo County.

To be Members of the STATE BOARD OF PLUMBING EXAMINERS: Jay Lee Drymalla, Colorado County; Mario Estrada, Bexar County; Mervin Phlegm, Harris County.

To be Members of the TEXAS PUBLIC BUILDING AUTHORITY: Gerald J. Goff, Travis County; Glen A. Hefner, Harris County; Marilyn Jones, Bexar County.

To be a Member of the TEXAS 1986 SESQUICENTENNIAL COMMISSION: Beverly Cummings, Harris County.

To be a Member of the TEXAS BOARD OF CORRECTIONS: Ruben Montemayor, Bexar County.

To be Members of the TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM BOARD OF TRUSTEES: John P. Gayle, Jr., Brazoria County; Judge Jack Treadway, Harris County.

To be Members of the TEXAS BOARD OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING AIDS: Richard C. Durbin, Rockwall County; Carl McGovern, Hidalgo County.

To be Members of the HOME HEALTH SERVICES ADVISORY COUNCIL: Hilary Connor, M.D., Travis County; Maurice B. Shaw, Travis County.

To be a Member of the TEXAS NATIONAL GUARD ARMORY BOARD: V. C. Eissler, Harris County.

To be a Member of the TEXAS BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS: Jean Trebert, Dallas County.

To be a Member of the PILOT COMMISSION FOR THE PORT OF GALVESTON AND TEXAS CITY: Daniel Perez, Galveston County.

To be a Member of the POLYGRAPH EXAMINERS BOARD: James E. Hood III, Dallas County.

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 51, To Committee on State Affairs.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 621 by Parker Health and Human Resources
Relating to the construction, installation, location and use of manufactured housing; declaring an emergency.

S.B. 626 by Farabee Health and Human Resources
Relating to voluntary in-patient and to involuntary mental health services, to admission and transfer procedures, to rights of patients, and to certain general provisions of construction and procedure under the Texas Mental Health Code; amending the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes) by amending certain sections in Chapters 1 through 5.

S.B. 627 by Brooks Health and Human Resources
Relating to the authority of commissioners courts in certain counties to provide child-care services to benefit the employees and jurors of the counties.

S.B. 628 by Sarpalius Criminal Justice
Relating to the disposition of fines imposed for convictions of driving while intoxicated offenses.

S.B. 629 by Sarpalius Finance
Relating to tax credits for the sale or use of mixtures of motor fuel and alcohol.

S.B. 630 by Blake Intergovernmental Relations
Relating to the creation of the constitutional office of criminal district attorney of Anderson County and abolishing the offices of district attorney of the 3rd Judicial District and county attorney of Anderson County.

S.B. 631 by Brooks Economic Development
Relating to a processing fee for a dishonored check given in payment under a retail charge agreement.

S.B. 632 by Brooks Health and Human Resources
Relating to the licensing and regulation of psychologists.

S.B. 633 by Brooks, Truan Health and Human Resources
Relating to community centers for mental health and mental retardation services, their administration, planning, and fees, and to contracts for community-based services; amending the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), by amending Sections 2.10, 2.12, 3.05, 3.07, 3.14, the title to Article 4, and Sections 4.01 through 4.04, and by adding Sections 2.09 and 2.12B.

S.B. 634 by Traeger State Affairs
Relating to the creation of a private sector advisory commission to study and recommend improvements to the efficiency of state government.

S.B. 635 by Traeger State Affairs
Relating to state contributions for military service credited in the Employees Retirement System of Texas.

S.B. 636 by Traeger State Affairs
Relating to internal accounting procedures of the Employees Retirement System of Texas.

S.B. 637 by Parmer Intergovernmental Relations
Relating to the authority of an incorporated city or town to enforce, in its corporate limits, the Solid Waste Disposal Act and rules adopted and permits and orders issued under that Act.

S.B. 638 by Mauzy Jurisprudence
Relating to temporary court orders in suits for dissolution of marriage and suits affecting the parent-child relationship.

S.B. 639 by Farabee, McFarland Criminal Justice
Relating to the Texas Controlled Substances Act and to the addition to and reclassification of certain substances in schedules and penalty groups; proceedings related to the denial, revocation, or suspension of registrations required under the Act; offenses related to the possession of controlled substances; the penalty for the investment of funds obtained in violation of the Act if the person has previously been convicted under the Act; requirements for transcribing certain prescriptions for controlled substances under the Act; definitions under the Act; records and reports required to be maintained under the Act; the cost of production of certain forms; certain commercial and fraud offenses under the Act and the imposition of civil penalties for certain activities; forfeiture proceedings under the Act and the disposition of proceeds from forfeiture; and to the continued effect of certain provisions of the Act.

S.B. 640 by Glasgow Education
Relating to the amount of laboratory charges collected at a junior college.

CO-AUTHOR OF SENATE BILL 57

On motion of Senator Farabee and by unanimous consent, Senator Brooks will be shown as Co-author of **S.B. 57**.

CO-AUTHOR OF SENATE BILL 377

On motion of Senator Sims and by unanimous consent, Senator Sarpalius will be shown as Co-author of **S.B. 377**.

GUEST PRESENTED

Senator Traeger was recognized and introduced the Capitol Physician for the Day, Dr. James C. Lee of Seguin.

The Senate expressed their appreciation to Dr. Lee.

GUEST PRESENTED

The President presented to the Senate the former Bureau Chief of the Austin American-Statesman, Sam Wood.

The Senate extended their welcome to Mr. Wood.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
February 26, 1985

TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE VETERANS LAND BOARD:

For a term to expire December 29, 1988:

KARL M. MAY
3001 Mt. Carmel
Waco, Texas 76710

(Mr. May is replacing Mr. Herman Mistler of Texarkana, Bowie County, Texas, whose term expired.)

Respectfully submitted,
/s/Mark White
Governor of Texas

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Howard gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

PERMISSION GRANTED FOR USE OF CHARTS

On motion of Senator Truan and by unanimous consent, permission was granted for charts to be placed on Senate floor for use during consideration of water legislation.

**COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 6 ON
SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.J.R. 6, Proposing a constitutional amendment to authorize the issuance of an additional \$1 billion of Texas Water Development Bonds, to create special water funds for water conservation, water development, water quality enhancement, flood control, drainage, subsidence control, recharge, chloride control, and agricultural soil and water conservation, to authorize the issuance of \$200 million of Texas agricultural water conservation bonds, and to clarify the purposes for which Texas Water Development Bonds may be issued. (Submitted by the Governor as an emergency matter.)

The resolution was read second time.

Senator Brown offered the following amendment to the resolution:

Floor Amendment No. 1

Amend C.S.H.J.R. 6 by striking lines 22-37 on page 1 and inserting in lieu thereof the following:

Sec. 49-d-2. (a) The Texas Water Development Board may issue additional Texas Water Development Bonds up to an additional aggregate principal amount of \$1 billion. Of the additional bonds authorized to be issued, \$600 million of those bonds are dedicated for use for the purposes provided by Sections 49-c and 49-d of this article; provided that \$400 million of those bonds shall be used for state participation in the acquisition and development of facilities for the storage, transmission, transportation, and treatment of water and wastewater as authorized by Section 49-d of this article. The legislature may set limits on the extent of state participation in projects in each fiscal year through the general appropriations act or other law, and state participation is limited to fifty percent of the funding for any single project. Of the additional bonds authorized, \$200 million are dedicated for use for the purposes provided by Section 49-d-1 of this article and \$200 million are dedicated exclusively for flood control projects and may be made available for any acquisition or construction necessary to achieve structural and nonstructural flood control purposes.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the resolution:

Floor Amendment No. 2

Amend C.S.H.J.R. 6 on page 3 by striking through the following words on the following lines:

- (1) on line 40, strike through "storage"
- (2) on line 41, strike through "storage"
- (3) on lines 41-43, strike through "together with any associated system or works necessary for the filtration, treatment, or transportation of water"
- (4) on line 51, strike through "storage"
- (5) on lines 51-52, strike through "or associated system or works"
- (6) on line 57, strike through "storage"
- (7) on line 58, strike through "or associated system or works"

The amendment was read and was adopted.

Senator Truan offered the following amendment to the resolution:

Floor Amendment No. 3

Amend C.S.H.J.R. 6 as follows:

- (1) On page 1, strike line 63 and substitute the following: "control, desalinization, agricultural soil and water conservation, or any".
- (2) On page 4, strike line 6 and substitute the following: "control, drainage, subsidence control, recharge, chloride control, desalinization,".

The amendment was read and was adopted.

Senator Truan offered the following amendment to the resolution:

Floor Amendment No. 4

Amend the caption of C.S.H.J.R. 6 by inserting "desalinization," after "chloride control," on page 1, line 13.

The amendment was read and was adopted.

On motion of Senator Santiesteban and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading.

RECORD OF VOTE

Senator Sharp asked to be recorded as voting "Nay" on the passage of the resolution to third reading.

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 6 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.J.R. 6 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Brooks, Parker.

Absent-excused: Washington.

The resolution was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Sharp.

Absent: Brooks.

Absent-excused: Washington.

PRIVILEGES OF THE FLOOR GRANTED

On motion of Senator Montford and by unanimous consent, privileges of the floor were granted to staff members Morris Wilkes and Steve Stagner during consideration of C.S.H.B. 2.

COMMITTEE SUBSTITUTE HOUSE BILL 2 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2, Relating to the conservation, development, and protection and enhancement of the quality of, and flood subsidence control for, surface and underground water and providing various financing mechanisms to finance conservation, development, and protection and enhancement of the quality of, and flood, subsidence control, recharge, and chloride control for, surface and underground water and agricultural soil and water conservation. (Submitted by the Governor as an emergency matter.)

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 2, Sec. 52.155 (5), by adding the following on line 20, page 34, after the word "water":

, necessary only to recharge an underground water reservoir or its subdivision.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 2 by substituting the following for Sec. 52.156, page 34, lines 21-24:

Sec. 52.156 (52.105). PURCHASE, SALE, TRANSPORTATION, AND DISTRIBUTION OF WATER (PROHIBITED). A (No) district may purchase, sell, transport, and (or) distribute surface water or underground water only for (any) the purpose of recharging an underground water reservoir or its subdivision.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 2 by substituting the following for Sec. 52.157, page 34, lines 25-30:

Sec. 52.157. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property located inside the district only if the property interest is necessary to the exercise of the authority conferred by this chapter for the purpose of recharging an underground water reservoir or its subdivision. However, the powers of eminent domain authorized in this section may not be utilized for the condemnation of water or water rights.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 2 by striking the following words in line 47, page 35 in Sec. 52.168: "reasonably be expected to"

and by striking the following words in line 62, page 35 in Sec. 52.170: "capable of"

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 2 by striking lines 34-41, page 33 and inserting the following:

Sec. 52.102 (52.052) ELECTION OR APPOINTMENT OF DIRECTORS: PRECINCT METHOD. (a) The directors of the district may (shall) be elected according to the precinct method as prescribed by Act of Apr. 24, 1939, ch. 12, 1939 Tex.-Gen. Laws, Spec. Water 1105 as amended by 1955 Tex. Gen Laws, ch. 48, p. 74 and 1965 Tex. Gen. Laws, ch. 318, p. 622 (Chapter 51 of this code). However, if any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two precincts, provided however in multicounty districts that no more than two of the five precincts may include the same municipal corporation or part thereof.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 6

Amend **C.S.H.B. 2** by striking lines 43-44 on page 33 and substituting in lieu thereof the following:

may provide that members of the board be appointed by the governing bodies of counties and cities in the proposed district.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 7

Amend **C.S.H.B. 2** by

- (1) On page 34, line 60, delete the second "the" and substitute "a".
- (2) On page 35, delete line 4 and place a period at the end of line 3.
- (3) On page 35, lines 16 and 17, delete "from the underground water reservoir or its subdivision" and place a period at the end of the sentence.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 8

Amend **C.S.H.B. 2** by striking lines 44-52 of page 9, of Sec. 2.10 and substituting the following:

(15) "Regional facility" means a water supply, wastewater collection and treatment, or other system which incorporates multiple service areas or drainage areas into an areawide service facility thereby reducing the number of required facilities, or any system which serves an area that is other than a single county, city, special district, or other political subdivision of the state the specified size of which is determined by:

- (A) population;
- (B) number of governmental entities served;
- (C) service capacity; or
- (D) any combination of the factors listed in Paragraphs (A) through (C) of this subdivision.

Regional wastewater treatment facilities may also include those identified in the approved state water quality management plan and the annual updates to that plan.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 9

Amend **C.S.H.B. 2** by deleting lines 5-9 on page 15 and inserting the following between lines 63 and 64 on page 14:

(4) the amount of principal of and interest on bonds issued for state participation under Article III, Section 49-d-2 of the Texas Constitution less any amount received from the sale, lease, or transfer of facilities built using the proceeds of those bonds.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 10

Amend **C.S.H.B. 2** by adding a new section 2.20 on page 16 between lines 41 and 42 to read as follows:

SECTION 2.20. Section 15.011, Water Code, is amended by adding a new subsection (c) to read as follows:

(c) At the end of each fiscal year, any funds transferred pursuant to subsection (b) of this section which remain unobligated are transferred back to the fund.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.H.B. 2 by adding a new section 6.04 on page 43 between lines 59 and 60, to read as follows, and renumbering sections 6.04 and 6.05 as 6.05 and 6.06, respectively.

SECTION 6.04. In the general appropriations act for the fiscal year beginning September 1, 1985 and the fiscal year beginning September 1, 1986, the legislature may transfer funds from the water assistance fund to the general revenue fund in an amount sufficient to cover the administrative expenses incurred under this act.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 2 by inserting a new section, appropriately numbered, on page 16, between lines 41 and 42, to read as follows:

SECTION _____. Subsections (a) and (b) of Section 15.012, Water Code, are amended to read as follows:

(a) The board may invest, reinvest, and direct the investment of money accumulated in the fund, subject to approval by the treasurer as to the cash flow implications of investment decisions.

(b) The fund consists of [Revenues accumulated pursuant to Article VIII, Section 24(b), of the Texas Constitution and] money appropriated by the legislature to the fund and other revenue required by law to be deposited in the fund [shall be deposited in the fund].

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.H.B. 2 by:

(1) On page 9, line 27, insert "and for flood control purposes" between the words "sections" and "under".

(2) On page 9, line 54, change "sections" to "Section" and on line 55 delete "and 17.1252".

(3) On page 10, delete lines 7 through 21 and lines 28 through 33.

(4) On page 16, between lines 41 and 42, add a new section, appropriately numbered, to read as follows:

SECTION _____. Chapter 17, Water Code, is amended by adding a new Subchapter H to read as follows:

SUBCHAPTER H **FINANCIAL ASSISTANCE FOR FLOOD CONTROL**

Sec. 17.771. **PURPOSE.** The purpose of this subchapter is to provide for making loans of flood control funds authorized by Article III, Section 49-d-2 of the Texas Constitution to political subdivisions of the state for the development of floodplain management plans and for structural and nonstructural flood control projects.

Sec. 17.772. DEFINITIONS. In this subchapter:

(1) "Flood control funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-2 of the Texas Constitution, and reserved for flood control purposes.

(2) "Floodplain management plan" means a comprehensive plan for flood control within a watershed, based upon analysis of alternative nonstructural and structural means of reducing flood hazards, including assessments of costs, benefits, and environmental effects. It may include preliminary design of structural flood control projects.

(3) "Nonstructural flood control" includes such measures as acquisition of floodplain lands for use as public open space; acquisition and removal of buildings located in a floodplain; and relocation of residents of buildings removed from a floodplain.

(4) "Structural flood control" includes such measures as construction of storm water retention basins, enlargement of stream channels, and modification or reconstruction of bridges.

(5) "Floodplain" means land subject to inundation by the 100-year-frequency flood.

(6) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, the expense of any condemnation or other legal proceeding, erection, building, acquisition, alteration, remodeling, improvement, or extension of projects, or the inspection or supervision of any of the foregoing items.

(7) "Financial assistance" means any loan of flood control funds made to a political subdivision for structural or nonstructural flood control measures through the purchase of bonds or other obligations of the political subdivision.

Sec. 17.773. FINANCIAL ASSISTANCE. The board may use flood control funds to provide financial assistance to political subdivisions for purposes of structural and nonstructural flood control and the development of floodplain management plans.

Sec. 17.774. APPLICATION FOR ASSISTANCE. In an application to the board for financial assistance, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision operates and was created;

(3) a description of the flood control measures for which the financial assistance will be used;

(4) the estimated total cost of the measures;

(5) the amount of state financial assistance requested;

(6) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(7) the plan for repaying the financial assistance; and

(8) any other information the board requires.

Sec. 17.775. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application from a political subdivision for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;

(3) the capacity of the watershed to accommodate storm water runoff;

(4) the impact of the project on watershed capacity along the entire watershed and the degree to which that capacity was considered in planning the project;

(5) whether the project will increase or decrease the volume or rate of storm water runoff into any channel in the watershed;

(6) the effect of the project on surface water elevations within the watershed and any downstream watershed; and

(7) the relationship of the project to any floodplain management plan for the watershed.

(8) whether adequate consideration was given to the effects of the project with regard to erosion and sediment control.

Sec. 17.776. ACTION ON APPLICATION. (a) After an application is received for financial assistance, the executive director shall submit the application to the board together with comments and recommendations of the development fund manager concerning the best method of making financial assistance available.

(b) The board may grant the application in whole or part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided, the amount of any such assistance, and in consultation with and pursuant to agreement with the political subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction to be performed.

Sec. 17.776. APPROVAL OF APPLICATION. The board by resolution may approve an application of, after considering the factors listed in Section 17.775 of this code and other relevant information, the board finds:

(1) that the public interest requires state participation in the project;

(2) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all obligations assumed by the political subdivision;

(3) if the project would increase the volume or rate of storm water runoff, that adequate consideration was given to alternative approaches that would decrease or hold constant the volume or rate of storm water runoff; and

(4) that the project proposed in the application will not increase the peak water surface elevation of any portion of any stream within the watershed or within any downstream watershed.

(5) that adequate consideration was given to the effects of the project with regard to erosion and sediment control.

Sec. 17.777. METHOD OF FINANCIAL ASSISTANCE. The board may provide financial assistance by using money in the flood control account to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project. The board may purchase outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

Sec. 17.778. BOND MATURITY. The board may not purchase bonds or other securities which have a maturity date more than fifty years from the date of issuance.

Sec. 17.779. INTEREST RATE. (a) Except as provided in Subsection (b) of this section, bonds and securities purchased by the board, with money derived from the sale of bonds issued under this chapter shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.

(b) Outstanding prior lien bonds purchased by the board under Section 17.777 of this code need not bear the interest rate provided in Subsection (a) of this section, but the board may pay such price or prices for outstanding prior lien bonds which in its discretion will accomplish the objective of Section 17.777 of this code.

Sec. 17.780. APPROVAL AND REGISTRATION. The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller.

Sec. 17.781. BONDS INCONTESTABLE. The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) purchase by and delivery to the board.

Sec. 17.782. SECURITY FOR THE BONDS. (a) Bonds purchased by the board shall be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(c) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the project.

Sec. 17.783. DEFAULT. (a) In the event of a default in payment of the principal of or interest on bonds purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.

Sec. 17.784. SALE OF BONDS BY BOARD. (a) The board may sell or dispose of bonds purchased with money in the flood control account. The board may not sell the bonds for less than amortized value and accrued interest.

(b) The board shall first offer the bonds at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds or other obligations at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, received competitive bids, and conduct the sale of such bonds or other obligations so purchased, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.

Sec. 17.785. PROCEEDS FROM SALE. The proceeds from the sale of political subdivision bonds held by the board shall be credited to the flood control account, except that accrued interest shall be credited to the interest and sinking fund.

Sec. 17.786. CONSTRUCTION CONTRACT REQUIREMENTS. The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the 10 percent retainage may be made by the political subdivision with approval of the executive director;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications.

Sec. 17.787. FILING CONSTRUCTION CONTRACT. The political subdivision shall file with the department a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

Sec. 17.788. INSPECTION OF PROJECTS. (a) The department may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

Sec. 17.789. ALTERATION OF PLANS. After the executive director approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive director authorizes the alteration in accordance with rules of the board.

Sec. 17.139. CERTIFICATE OF APPROVAL. The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

The amendment was read and was adopted.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.H.B. 2 as follows:

(1) On page 5, strike line 26 and substitute the following: “recharge, chloride control, and desalinization, and to carry out other purposes”.

(2) On page 5, strike line 38 and substitute the following: “control, recharge, chloride control, and desalinization, and other purposes as”.

(3) On page 5, strike lines 64 and 65 and substitute the following: “subsidence control within any watershed, or providing recharge, chloride control, or desalinization as provided [defined] by legislative”.

The amendment was read and was adopted.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.H.B. 2, Sec. 52.059 (a), page 31, line 52, by striking the number “50” and substituting “5”.

The amendment was read and was adopted.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.H.B. 2, SECTION 6.02, page 43, line 50, by striking the number “\$10” and substituting “\$15”.

The amendment was read and was adopted.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.H.B. 2, Sec. 15.434, page 17, to read as follows:

Sec. 15.434. USE OF MONEY IN FUND. (a) Money deposited to the credit of the agricultural soil and water conservation fund, on appropriation by the legislature to the department, the Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Experiment Station, the Texas Agricultural Extension Service, public colleges and universities, and other state agencies shall be used for the following purposes:

(1) agricultural water conservation technical assistance programs;

(2) agricultural water conservation, education and demonstration programs;

(3) purchase of demonstration and educational equipment;

(4) grants made to underground water conservation districts for technical assistance activities including the purchase of equipment under programs established by Subchapter I of this chapter;

(5) cost-sharing programs to assist individuals in implementing soil and water conservation land improvement measures including brush control, forest improvement measures, measures for returning highly erosive cropland to pasture, and the payment of a portion of the landowners' or operators' share of federal agriculture conservation cost-sharing programs as provided by Subchapter H, Chapter 201, Agriculture Code;

(6) research in water utilization and conservation including artificial recharge and secondary recovery of underground water;

- (7) desalinization;
- (8) weather modification;
- (9) technical assistance programs for developing on-farm soil and water conservation plans developed jointly by landowners and operators and local soil and water conservation districts, as provided by Subchapter H, Chapter 201, Agriculture Code;
- (10) research and demonstration relating to the production of native and low-water-use plants and water-efficient crops;
- (11) cost-sharing programs to assist individuals residing in water districts in purchasing or improving water-efficient irrigation equipment under programs established by Subchapter H of this chapter;
- (12) a pilot program for low-interest loans for the purchase of agricultural water conservation systems established by Subchapter J of this chapter; and
- (13) Research, demonstration and education relating to brush control.

The amendment was read.

On motion of Senator Sarpalius and by unanimous consent, the amendment was withdrawn.

Question - Shall the bill as amended be passed to third reading?

RECESS

On motion of Senator Brooks, the Senate at 12:00 o'clock noon took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

COMMITTEE SUBSTITUTE HOUSE BILL 2 ON SECOND READING

The Senate resumed consideration of C.S.H.B. 2 on its second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 18

Amend C.S.H.B. 2 on pages 42 and 43, by striking Subchapter K of Chapter 52 and substituting the following:

SUBCHAPTER K. SPECIAL CREATION PROCEDURE

Sec. 52.601. SPECIAL DISTRICT REVIEW COMMITTEE. (a) A special district review committee is created that is composed of the governor, lieutenant governor, and speaker of the house of representatives.

(b) The governor, lieutenant governor, or speaker may designate a personal representative to represent him on the special district review committee.

Sec. 52.602. STUDY AND REPORT. (a) If a proposition to create a district in a critical area or to add a critical area to an existing district fails, the special district review committee on notification by the commission that the proposition has failed shall conduct a study of the information and data compiled by the department and the commission in designating the critical area, and the circumstances relating to the defeat of the proposition at the election.

(b) At the conclusion of the study, the special district review committee shall recommend that the commission issue an order:

- (1) to create a district in the critical area; or
- (2) to call another election in the critical area to determine whether a district should be created in that area.

(c) The special district review committee shall submit its recommendation relating to a particular critical area to the commission not later than 90 days after the commission has notified the special district review committee of the failure of the proposition.

(d) The special district review committee's recommendation shall be included in a written report that states the reasons for making the recommendation.

(e) The department shall furnish expert staff to assist the special district review committee in its deliberations.

Sec. 52.603. CONSIDERATION BY COMMISSION. (a) On receiving a report from the special district review committee, the commission shall consider the recommendation in the report and shall determine whether to implement the recommendation of that committee.

(b) Except as provided by Section 52.605 of this code, the commission is not required to implement a recommendation of the special district review committee.

Sec. 52.604. PETITION TO CREATE DISTRICT. During the period that the special district review committee is conducting its study and formulating its recommendation, a petition may be submitted to the commission for creation of a district in the critical area being studied.

Sec. 52.605. COMMISSION ORDER. (a) If the commission accepts the recommendation of the special district review committee to create a district in the critical area and a petition has not been received under Section 52.604 of this code, it shall issue an order directing implementation of the recommendation.

(b) If the commission receives a recommendation of the special district review committee to call a second election and the commission has not received a petition to call an election, the commission shall issue an order calling an election to determine whether to create the district in the critical area.

(c) If the commission receives a recommendation of the special district review committee that the commission create the district by order without calling a second election but a petition has been submitted under Section 52.604 of this code to create a district, the commission shall grant the petition to call an election to determine whether to create a district in the critical area.

(d) If the commission receives a recommendation of the special district review committee that an election be called to create a district in the critical area and a petition has been submitted to call an election to create a district in the critical area, the commission must grant the petition to call an election to determine whether to create the district in the critical area.

Sec. 52.606. ELECTION PROCEDURE. If the commission orders an election to be held to determine whether to create the district, the election shall be called and held and the election expenses shall be paid as provided by Sections 52.057, 52.058, and 52.061 of this code for districts created in critical areas.

Sec. 52.607. CREATION OF DISTRICT. (a) If an election is held to determine if a district will be created and a majority of the qualified voters voting in the election vote in favor of creating a district, the district is created and is governed by this chapter.

(b) If an election is held to determine if a district will be created and a majority of the qualified voters voting in the election vote against creating the district or if the commission determines that a district should be created without another election as provided by Subsection (a), Section 52.605, of this code, the commission shall issue an order directing that a district be created in the critical area to be governed by this chapter except as provided by Section 52.608 of this code.

Sec. 52.608. BOARD OF A DISTRICT CREATED BY COMMISSION. (a) If the commission orders a district to be created under Subsection (b), Section 52.607, of this code, the governor, with the advice and consent of the senate, shall appoint five persons to serve as directors of the district for a term of two years.

(b) The five persons appointed by the governor must be residents of the district, and in making the appointments, the governor shall consider the interests of the municipal as well as the rural areas within the district and of those persons in the district who are involved in agricultural, ranching, livestock, and other nonmunicipal activities.

(c) At the expiration of the two-year terms of the persons appointed under Subsection (a) of this section, selection of directors for the district is governed by Subchapter D of this chapter.

The amendment was read and was adopted by the following vote: Yeas 27, Nays 3.

Yeas: Barrientos, Brooks, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Blake, Brown, Sharp.

Absent-excused: Washington.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.H.B. 2, Sec. 15.434, page 17, to read as follows:

Sec. 15.434. USE OF MONEY IN FUND. (a) Money deposited to the credit of the agricultural soil and water conservation fund, on appropriation by the legislature to the department, the Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Experiment Station, the Texas Agricultural Extension Service, public colleges and universities, and other state agencies shall be used for the following purposes:

- (1) agricultural water conservation technical assistance programs;
- (2) agricultural water conservation, education and demonstration programs;
- (3) purchase of equipment, including demonstration and educational equipment;
- (4) grants made to underground water conservation districts for technical assistance activities including the purchase of equipment under programs established by Subchapter I of this chapter;
- (5) cost-sharing programs to assist individuals in implementing soil and water conservation land improvement measures including brush control, forest improvement measures, measures for returning highly erosive cropland to pasture, and the payment of a portion of the landowners' or operators' share of federal agriculture conservation cost-sharing programs as provided by Subchapter H, Chapter 201, Agriculture Code;
- (6) research in water utilization and conservation including artificial recharge and secondary recovery of underground water;
- (7) desalinization;
- (8) weather modification;
- (9) technical assistance programs for developing on-farm soil and water conservation plans developed jointly by landowners and operators and local soil and water conservation districts, as provided by Subchapter H, Chapter 201, Agriculture Code;
- (10) research and demonstration relating to the production of native and low-water-use plants and water-efficient crops;
- (11) cost-sharing programs to assist individuals residing in water districts in purchasing or improving water-efficient irrigation equipment under programs established by Subchapter H of this chapter;

- (12) a pilot program for low-interest loans for the purchase of agricultural water conservation systems established by Subchapter J of this chapter; and
(13) Research, demonstration and education relating to brush control.

The amendment was read and was adopted.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.H.B. 2 on page 3, line 41, by inserting the following between "conservation" and the period:

as defined by Subdivision (8) (B), Section 11.002, of this code

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 21

Amend C.S.H.B. 2 as follows:

(1) On pages 4 and 5, renumber current Sections 6.052 through 6.055 as 6.053 through 6.056 respectively.

(2) On page 4 between lines 61 and 62 insert the following:

Sec. 6.052. INTERACTION WITH MEXICO. The commission shall contact and confer with the government of Mexico concerning water needs and development of sources of water supply.

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 22

Amend C.S.H.B. 2 in the following manner:

On Page 5, line 63, after the word "drainage," add the phrase as follows:
"Project recreation lands and revenue-generating recreational improvements,"

On Page 12, between lines 28 and 29 add a new item as follows:

"G. Public recreational land and revenue-generating recreational improvements for the efficient public enjoyment of projects."

On Page 38, between lines 66 and 67 add a new phrase as follows:

"(6). Acquire project recreation lands and provide revenue-generating recreational improvements."

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 23

Amend C.S.H.B. 2 by adding a new section, appropriately numbered, on page 16 between line 41 and 42 to read as follows:

Section _____. Chapters 16 and 17, Water Code, are amended by adding new sections 16.1351 and 17.1252 to read as follows:

Section 16.1351. RECREATIONAL ACCESS

If the board is acquiring an interest in a storage facility, it must also find affirmatively that the applicant has a Texas Parks and Wildlife Department approved plan to provide adequate public recreational access areas to suitable recreational resources.

Section 17.1252. RECREATIONAL ACCESS

If the board is providing financial assistance for a water storage project, it must also find affirmatively that the applicant has a Texas Parks and Wildlife Department approved plan to provide adequate public recreational access areas to suitable recreational resources.

The amendment was read and was adopted.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 24

Amend **C.S.H.B. 2** on page 22, by striking line 17 and substituting the following: "maintain the productivity of the bay or estuary system for".

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 15, Nays 15.

Yeas: Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Krier, Leedom, McFarland, Montford, Sarpalius, Sims, Whitmire.

Nays: Barrientos, Brooks, Caperton, Edwards, Henderson, Lyon, Mauzy, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Williams.

Absent-excused: Washington.

The President stated he would vote "Yea" on the motion to table the amendment.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 25

Amend **C.S.H.B. 2** by deleting lines 60 through 62 of page 22 of bill and substituting the following:

"habitat. The commission may also take into consideration any recommendations made by United States Fish and Wildlife Service pursuant to 33 C.F.R. Sections 320-330."

The amendment was read and was adopted.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 26

Amend **C.S.H.B. 2** by deleting Section 11.149 (a) of Section 4.02 of the bill, located on lines 28 through 38 of page 23 and substituting the following:

Sec. 11.159. COLLECTION OF BAYS AND ESTUARIES DATA; CONDUCT OF STUDIES; AND ESTABLISHMENT OF BAYS AND ESTUARIES ADVISORY COUNCILS.

(a) The Parks and Wildlife Department, in cooperation with the department and other appropriate governmental agencies, shall establish and maintain on a continuous basis a bay and estuary data collection program and shall conduct studies and analyses. These studies shall be completed no later than December 31, 1989.

The amendment was read.

Senator Montford moved to table the amendment.

The motion to table the amendment failed by the following vote: Yeas 10, Nays 19.

Yeas: Blake, Brown, Glasgow, Jones, Kothmann, Krier, Leedom, Montford, Sims, Traeger.

Nays: Barrientos, Brooks, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Whitmire, Williams.

Absent: Sarpalius.

Absent-excused: Washington.

Question on the adoption of the amendment, the amendment was adopted.

RECORD OF VOTE

Senator Sims asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 27

Amend C.S.H.B. 2, ARTICLE 4, SECTION 4.04., Section 16.1331., by creating a new (f) and renumbering accordingly:

(f) This section does not apply to applications for permits to store, take, or divert water to be used only in the Brazos River Basin.

The amendment was read.

On motion of Senator Brown and by unanimous consent, the amendment was withdrawn.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 28

Amend C.S.H.B. 2 on line 63 of page 32 by inserting the letter "(a)" between "SUBCHAPTER." and "Except" and adding a Subsection (b) to Section 52.062 to read as follows:

"(b) Subject to the resolution of constitutional and other legal issues, if state-owned land or a portion thereof is found to be in a critical area, the state agency having constitutionally or statutorially delegated management and control over state lands shall elect to place that portion of its lands in an underground water district pursuant to an agreement (which may provide for the payment of reasonable fees) entered into among the state agency, the commission, and the underground water district under the terms of the Interlocal Cooperation Act (Article 4413 (32c), Vernon's Texas Civil Statutes) or to form an underground water district or districts on the lands under its management and control (the boundaries of which shall not extend outside the boundaries of tracts of land owned by it), in which case the governing body of the state agency shall adopt a water conservation plan."

The amendment was read and was adopted.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 29

Amend C.S.H.B. 2 in ARTICLE 5, SECTION 5.01, Sec. 16.0151, by adding Hays County to Region 26.

The amendment was read and was adopted.

Senator Henderson offered the following amendment to the bill:

Floor Amendment No. 30

Amend C.S.H.B. 2, ARTICLE 2, Sec. 17.124 subsection (b) by inserting "water facilities for a political subdivision that is converting from the use of ground water to the use of surface water, or a project that includes flood control," on line 3, page 10 between "facilities," and "the board" and on page 10, line 24 between "facilities" and "the board."

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 31

Amend C.S.H.B. 2 by adding a new section of Chapter 52 on page 37 line 42 as follows:

Sec. 52.174. INFORMATION. The district, on a continuing basis, shall make available to the department information that it acquires concerning the underground water resources within its jurisdiction. The district shall also provide information to the department concerning its plans and activities in conserving and protecting underground water resources.

and by amending the parenthetical explanation of section numbering as follows: (Sections 52.175 to 52.250 reserved for expansion)

The amendment was read and was adopted.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 32

Amend C.S.H.B. 2, Article V, Section 52.157(d) to read as follows:

"Sec. 52.157 (d) In exercising the power of eminent domain, if the district requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived from the old facility."

The amendment was read and was adopted.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 33

Amend C.S.H.B. 2, Article V, Section 52.002 to read as follows:

"Sec. 52.002. OWNERSHIP OF UNDERGROUND WATER. The ownership and rights of the owner of the land and his lessees and assigns in underground water are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights ~~[subject to the rules promulgated by a district under this chapter].~~"

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 25, Nays 5.

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Kothmann, Krier, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Brown, Jones, Leedom, Sarpalius, Sims.

Absent-excused: Washington.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 34

Amend C.S.H.B. 2 by substituting the following for lines 35-41 on page 36:

Sec. 52.171. WATER WELL FEE. (a) A district may impose a fee on each water well for which a permit is issued by the district based on the size of the column pipe used in the water well, on the production capacity of the well, or on the amount of water produced.

(b) The board shall adopt rules relating to the rates for the fee, the manner and form for filing reports of fees, and the manner for collection of fees.

The amendment was read and was adopted.

**VOTE ON MOTION TO TABLE FLOOR AMENDMENT NO. 24
TO COMMITTEE SUBSTITUTE HOUSE BILL 2 RECONSIDERED**

On motion of Senator Harris, the vote by which Floor Amendment No. 24 was tabled was reconsidered by the following vote: Yeas 19, Nays 9.

Yeas: Barrientos, Brooks, Edwards, Harris, Henderson, Howard, Kothmann, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Truan, Uribe, Whitmire, Williams.

Nays: Blake, Brown, Glasgow, Jones, Krier, Leedom, Montford, Sims, Traeger.

Absent: Caperton, Farabee.

Absent-excused: Washington.

Question - Shall Floor Amendment No. 24 be adopted?

Floor Amendment No. 24 was adopted.

RECORD OF VOTES

Senators Brown and Jones asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 24.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 2 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Sharp.

Absent-excused: Washington.

ESCORT COMMITTEE APPOINTED

In accordance with the provisions of H.C.R. 41, the President announced the appointment of the following as a Committee to Escort Vice-President George Bush to the Joint Session tomorrow: Senators Blake, Brown, Harris, Henderson, Krier, Leedom, McFarland.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 46
H.C.R. 48
H.C.R. 56
H.C.R. 58
H.C.R. 59
H.C.R. 74
H.C.R. 81
H.C.R. 83

MEMORIAL RESOLUTIONS

S.R. 157 - By Brooks: Memorial resolution for Mrs. Patti Harriet Fox Swann.

S.R. 158 - By Parmer: Memorial resolution for James A. Williams.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 3:03 o'clock p.m. adjourned until 9:15 o'clock a.m. tomorrow.

TWENTY-NINTH DAY
(Thursday, February 28, 1985)

The Senate met at 9:15 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Absent-excused: Glasgow, Santiesteban, Washington.

A quorum was announced present.

Senator Kent Caperton offered the invocation as follows:

Dear Lord, we thank You for the blessings that You have given us. We ask You to be with us as we enter into our responsibilities this day, and we hope that we live our lives as You would have us do. In Jesus' name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Washington was granted leave of absence for today on account of illness on motion of Senator Whitmire.

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Lyon.

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Jones.